

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DERWIN JONES,
Petitioner,

v.

Case No. 13-C-1405

PAUL KEMPER, Warden,
Racine Correction Institution,
Respondent.

ORDER

On December 13, 2013, this court received a habeas petition under 28 U.S.C. § 2254 from Derwin Jones. This is the third such petition this court has received from Jones challenging the same state criminal conviction. Jones filed the first petition in 2005, and the court denied that petition on the merits and entered judgment in 2008. See Jones v. Smith, No. 05-C-0304, 2008 WL 820145 (E.D. Wis. March 26, 2008). Jones filed his second petition in 2010. The court determined that that petition was second or successive under 28 U.S.C. § 2244(b), determined that the petitioner had not obtained an order from the court of appeals authorizing this court to consider a second or successive petition, and dismissed the petition for lack of subject matter jurisdiction. See Jones v. Smith, No. 10-C-0260 (E.D. Wis. June 1, 2010). The present petition, in which Jones challenges the same criminal conviction that he challenged in his prior two habeas petitions, is also second or successive. Jones still has not obtained an order from the court of appeals authorizing this court to consider such a petition. See 28 U.S.C. § 2244(b)(3). Therefore, I must dismiss the petition. If Jones believes that he can establish that the requirements for filing a

second or successive petition are met, he may file with the Court of Appeals for the Seventh Circuit a request for leave to file such a petition under Circuit Rule 22.2.

In addition to his petition, Jones has filed a motion for leave to proceed in forma pauperis and two motions for appointment of counsel. Because it is clear that Jones cannot proceed in this court at this time, those motions will be denied as moot.

Accordingly, **IT IS ORDERED** that the petition is **DISMISSED** as an unauthorized second or successive petition.

IT IS FURTHER ORDERED that petitioner's motion for leave to proceed in forma pauperis is **DENIED** as **MOOT**.

IT IS FURTHER ORDERED that petitioner's motions to appoint counsel are **DENIED** as **MOOT**.

FINALLY, IT IS ORDERED that the Clerk of Court enter judgment.

Dated at Milwaukee, Wisconsin, this 8th day of January, 2014.

s/ Lynn Adelman

LYNN ADELMAN
District Judge